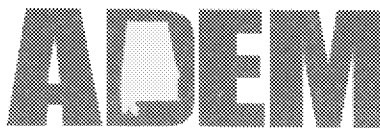


LANCE R. LEFLEUR
DIRECTOR



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ROBERT J. BENTLEY
GOVERNOR

November 18, 2016

CERTIFIED MAIL (NO. 91-7108-2133-3936-7150-8474)
RETURN RECEIPT REQUESTED

Ms. Lillian S. Dorka, Acting Director
U.S. Environmental Protection Agency
Office of Civil Rights
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460-1000

RE: EPA File No. 13R-16-R4

Dear Ms. Dorka:

I received your letter dated November 3, 2016 announcing partial closure by the EPA Office of Civil Rights (OCR) of the administrative complaint 13R-16-R4. OCR was fully aware that the referenced administrative action was not final when it accepted the complaint for investigation. [See ADEM letter dated May 2, 2016.] By closing the complainants' allegation, OCR is belatedly acknowledging its prior acceptance of the complaint was premature and in error.

Failure to dismiss 13R-16-R4 in its entirety continues a well-established pattern of arbitrary and capricious actions by OCR against the Alabama Department of Environmental Management (ADEM), an agency of the State of Alabama.

The issue OCR has not dismissed,

"Whether ADEM is complying with the procedural safeguard provision delineated in 40 C.F.R. Part 7 Subpart D, which requires recipients of EPA financial assistance to have specific policies and procedures in place to comply with their affirmative non-discrimination obligations."

is due to be dismissed immediately because it fails to meet any of the requirements set out in 40 C.F.R. 40 part 7 Subpart D Paragraph 7.120(b), as currently promulgated. Specifically:

1. **Complaint was not in writing.** The un-dismissed issue was not included in the written complaint submitted on behalf of the complainants dated February 3, 2016. OCR by its own action added the issue to the complaint which in effect means OCR, rather than being an independent determiner of fact, sought to convey upon itself the status of a complainant.
2. **No alleged discriminatory act.** In its February 24, 2016 letter notifying ADEM of acceptance of the complaint for investigation, OCR references an external statement purportedly made by a non-complainant to an organization not related to OCR in 2013 as the basis for including the issue in the investigation. The non-complainant referenced in OCR's letter was not and is not a resident of Dothan or the State of Alabama and has no interests that would qualify him as an affected

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Ms. Lillian S. Dorka, Acting Director
U.S. Environmental Protection Agency
Office of Civil Rights
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party. The issue manufactured solely by OCR based on the alleged external statement cannot be an allegation of a discriminatory act by a complainant because no complainant made the allegation.

3. Untimely notification. According to OCR, the external statement upon which OCR bases the addition of the second issue to 13R-16-R4 supposedly was made in August 2013, which is more than TWO YEARS BEFORE both the January 8, 2016 alleged discriminatory act and the February 3, 2016 complaint.

OCR has acted in wanton disregard of promulgated federal regulations by contriving an issue not raised in the complaint, then dismissing every issue except the one it contrived. ADEM demands that OCR cease such ultra vires actions and immediately dismiss complaint 13R-16-R4 in its entirety.

Sincerely,

Lance R. LeFleur
Director

LRL:df